

80216

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bruce A. Fogelson Art Unit: 3688

Serial No.: 09/885,970

Filed: June 21, 2001

For: METHOD AND SYSTEM FOR
CREATING ADVERTISING BOOKS

Attorney
Docket No.: 80216

DECLARATION OF Bruce A. Fogelson

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Bruce A. Fogelson, make the following statements based upon my own personal knowledge and experience.

- (1) I have received a BSBA degree in Real Estate and Finance from the University of Denver in Denver CO. I am reasonably well read and enjoy all sorts of books and novels of fiction and non-fiction. I am familiar with bound paper books, reading electronic books and files on a computer screen and portable electronic books.
- (2) The attached exhibit A is an e-mail advertisement for a brand of electronic book known as "Kindle" for reading popular books on a portable "electronic book". It is my understanding that this type of "electronic book" is typical of its kind, featuring a device that is loaded up with generally available often popular published material. The advertisement for the "Kindle" "electronic book" includes a listing of popular reading titles, all available through www.Amazon.com.

- (3) I have come to learn after 2001 that the "electronic book" or "e-book" is defined as BOTH "electronic content" and a "portable reading system,". One source for this is noted in the attached exhibit B. I take "portable reading system" for "electronic content" to mean "portable [electronic] reading system" as typified as the "Kindle" e-book shown in exhibit A.
- (4) I believe that there is no similarity in concept between the "electronic books" or "e-books" and a "charity ad-books".
- (5) I take the meaning of a "charity ad-book" as defined and described in the patent pending application Serial No.: 09/885,970 Filed June 21, 2001 For a "METHOD AND SYSTEM FOR CREATING ADVERTISING BOOKS" to which this Declaration is made ("Ad-Book"). It is my understanding of the "Ad-Book" patent that a portable electronic reading system such as the "e-book" or device such as the "Kindle" shown in exhibit A, is not required or contemplated. It is my contention that no such e-book device or portable electronic reading system was ever contemplated with the "Ad-Book" patent and is not now contemplated to this date, nor could they be confused or expected to be used for any singular purpose by one skilled in the art of either Charity Ad-Books or for delivering Charity Ad-Book content as electronic content into such a portable electronic reading device or e-book.
- (6) I take the meaning of "electronic book" or "e-book" to be the expert or common vernacular description which is I take "portable reading system" for "electronic content" to mean "portable [electronic] reading system" as typified as the "Kindle" e-book shown in exhibit A or as described in exhibit B to be the definition applied to the March 10, 2000 filed patent application publication known as "ADVERTISING IN ELECTRONIC BOOKS" by Rothstein as Pub. No. US 2002/0188532 A1 as show in its abstract on exhibit C (Rothstein) and as I understand the full reading of Rothstein.

- (7) I did not know prior to 2000, nor do I now know now, after a decade of extensive study in the field of charity and "ad-books", of any instance when the content of a charity "ad-book" has ever been applied to an "electronic book" or "e-book" nor when an "electronic book" device or "e-book" has ever or would ever be combined or considered for a singular purpose. I know of no instance when a "e-book" or "ad-book" could be misconstrued as in related uses or fields and I, as one skilled in my fields, would not consider them related.
- (8) Prior to 2001 I do not recall that I was aware of the "electronic book" nor do I believe the "electronic book" or "e-book" was a popularly known item. Likewise, Prior to 2001, I do not recall, as one in the field of charity, that the concept of an electronic, paperless or automated configuration system whereby the process of creating an "ad-book" could be conceived either for any one group let alone a single system that could service a plurality of groups.
- (9) I have been involved in the business of Real Estate for over 25 years. My success in my field has enabled me to dedicate significant time to charity philanthropy and inventive pursuits.
- (10) In order to advance my business and Charity, I regularly place advertising with commercial publications, as well as "Ads" or laudable statements in "charity ad-books" for philanthropic, political or other not-for profit causes.
- (11) In placing commercial advertising, I consider the commercial message, production value, image, and the value of the exposure that my advertising will have to potential target market of customers as an important factor in placing advertisements. This is a roughly or specifically calculated business decision weighing the cost of the advertisements, most likely over an period of time or "ad-run" as compared with the number of business responses or "leads" and the lesser net

number of leads converted to customers for my business. In placing an "ad" or laudable statement I make no such calculation and consider the "ad" simply as a charity donation and the message simply a statement of affinity or support for the group, with no real value or comparable calculable commercial value or expectation for business.

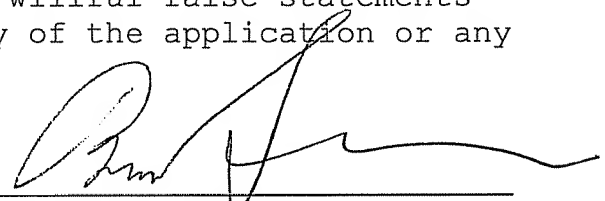
- (12) I have been involved in numerous charity "ad book" projects for charitable organizations. I have sold ads in "ad books" for over 20 years that I can recall. I have found that ad books are produced by volunteers, like me, who produce the "ad book" without pay and are not print or publishing or advertising experts. I have found that the volunteers who produce ad books usually have very little or no experience in advertising. I have found that sales of ad books are made to friends or supporters or members of the group or its members or volunteers. Prior to 2001, and virtually all since then, I have found that the "ads" for charity "ad-books" are taken down by donors or by members or volunteers onto paper forms and with paper "ads". I have found that the vast majority of "ads" in "ad-books" primarily desire to see their names in print in the context with their chosen group or organization as the reason for their contribution, and not for any perceived or real or calculable commercial purpose. Thus, I have found that ads placed in ad books is not the same or equivalent to commercial advertising because of the differences in the content of the "ad books" and also because of the way that ad books are sold. This understanding also extends to any ad that may be contemplated in an "electronic book" or "e-book".
- (13) I can not conceive of a method or practice where a charity or group "ad" or message could be incorporated into an "e-book" or "electronic book", in fact, from what I know of e-books or publishing titles for "electronic books" or "e-books" as typified by the exhibits A, B, or C (Including the , the field of e-book publishing would be the most difficult and remote ever to

consider or be confused with field of "ad-books".

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: May 15, 2009

x



Bruce A. Fogelson

Exhibit A

Exhibit A

Bruce Fogelson

From: Amazon.com [store-news@amazon.com]
Sent: Saturday, April 18, 2009 4:08 AM
To: Bruce Fogelson
Subject: Amazon Kindle: Over 260,000 Books Now Available

amazon.com

Kindle Store

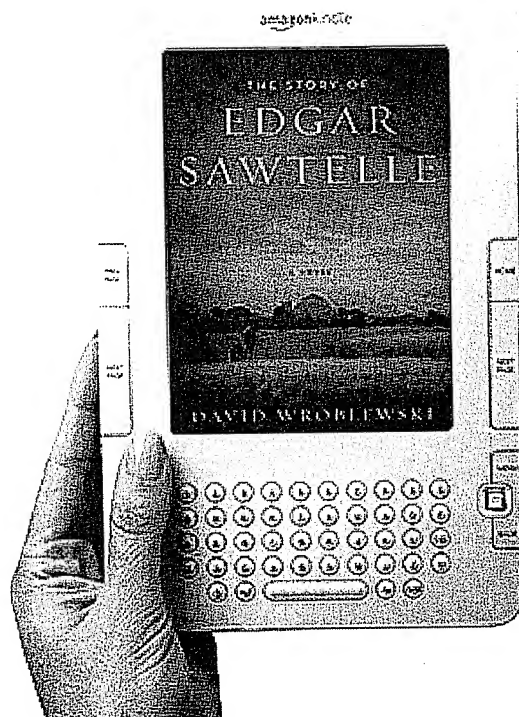
Your Amazon.com

Let them choose from millions of items

› Amazon.com Gift Cards

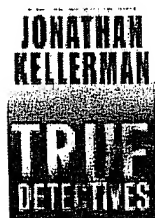
Today's Deals

See All Departments

**Dear Amazon.com Customer,**

As someone who enjoys purchasing books from Amazon.com, we thought you'd like to know there are now over 260,000 books, magazines, newspapers and blogs. Free wireless delivery in less than 60 seconds.

- Wirelessly download a book in 60 seconds; no PC required
- All *New York Times* bestsellers \$9.99 or less unless marked otherwise
- Experience a display that looks and reads like paper, even in sunlight
- Holds 1,500 books

See Kindle now**Popular Reading on Kindle**

True Detectives: A Novel
\$9.99



Haunting Bombay
\$9.99



Overqualified
\$9.99



Pemberley Manor
\$9.99



Rex: A Novel
\$9.99



A World I Never Made
\$9.99



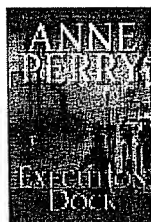
The Mermaids Singing
\$9.99



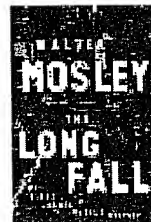
The Mirror Effect
\$14.84



Almost an Evening
\$9.99



Execution Dock: A Novel
\$9.99



The Long Fall
\$9.99



Still Life: A Novel
\$9.99



Life is Short But
Wide
\$9.99



The Wind Comes
Sweeping
\$9.99



Nightwalker
\$9.99



The Courage
Tree
\$9.99

> Explore more in the Kindle Store

We hope you found this message to be useful. However, if you'd rather not receive future e-mails of this sort from Amazon.com, please opt-out [here](#).

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Reference 11779050

Please note that this message was sent to the following e-mail address: bruce@paramounthomes.com

Exhibit B

Exhibit B.


 Internet Librarian International 2009
 15 & 16 October | London, UK


Volume 17, Issue 10 • November 2000

• IT Report from the Field •

Electronic Book 2000: Protecting Content

This conference highlighted digital rights management and protection

by Judy Luther

The leading topic of Electronic Book 2000, the third annual e-book conference and show, was digital rights management (DRM) and protection. Co-sponsored by the National Institute of Standards and Technology (NIST) and the National Information Standards Organization (NISO), this year's conference was subtitled "Changing the Fundamentals of Reading."

Over 600 attendees and 35 exhibitors gathered September 25–27 at the Ronald Reagan Building and International Trade Center in Washington, DC, to explore the dynamics of this emerging industry. Victor McCrary, who conceived and organized the first conference at NIST 3 years ago, was joined by Pat Harris, executive director of NISO, who handled the exhibits.

This is the first year the program was held outside of NIST's headquarters in Gaithersburg, Maryland. It was structured with concurrent sessions on book-application systems, international developments, authors' forums, standards and interoperability, business models, market-serving strategies, libraries and education applications, digital rights management, and publishing strategies. It also featured many vendor presentations, but offered few speeches from publishers. The audience included nearly 100 librarians mostly from public and academic libraries. The major commercial, scholarly, and trade publishers as well as many government agencies were also represented.

General Session

* In his introductory remarks, McCrary defined the e-book as both "electronic content" and a "portable reading system," and noted that Forrester Research predicts e-book sales will rise to \$426 million by 2004. This figure comprises 13 percent of online book sales. McCrary believes that businesses will adopt e-book technology for internal applications before the consumer market adopts them for recreational reading. He also predicted that the market will embrace a super, personal digital assistant (PDA) that's based on functionality, mobility, and price. <

The keynote address was given by Steve Canepa, vice president of marketing for IBM Global Media and Entertainment, who announced that IBM was ready to get actively involved in the e-book industry. With PDAs driving the demand for digital content, he observed that print is another way to use content, but may not be the primary way. Canepa stated that technologists and publishers both have roles and should stick with their core competencies, noting that interoperability and agility are essential in this environment.

Ken Brooks, Barnes & Noble's vice president of digital content, asked, "Where's the money?" He cited Andersen Consulting's projections (available at the Association of American Publishers [AAP] Web site at <http://www.publishers.org>), which expect the industry to reach \$2.3 billion by 2005.

Exhibit C

Exhibit C.



US 20020188532A1

(19) **United States**

(12) **Patent Application Publication** (10) Pub. No.: **US 2002/0188532 A1**

Rothstein

(43) Pub. Date: **Dec. 12, 2002**

(54) **ADVERTISING IN ELECTRONIC BOOKS**

(22) Filed: **Mar. 10, 2000**

(75) Inventor: **Scott L. Rothstein, San Jose, CA (US)**

Publication Classification

Correspondence Address:
FISH & RICHARDSON P.C.
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SUITE 500
REDWOOD CITY, CA 94063 (US)

(51) Int. Cl.⁷ **G06F 17/60**
(52) U.S. Cl. **705/29**

(57) **ABSTRACT**

(73) Assignee: **FISH & RICHARDSON PC**

(*) Notice: This is a publication of a continued prosecution application (CPA) filed under 37 CFR 1.53(d).

An apparatus and method for advertising in electronic documents. According to one implementation, the method includes receiving an electronic book, receiving one or more electronic ads, inserting the electronic ads into the electronic book to create an enhanced electronic book and sending the enhanced electronic book to a customer.

(21) Appl. No.: **09/522,641**

